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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1952

No. 453

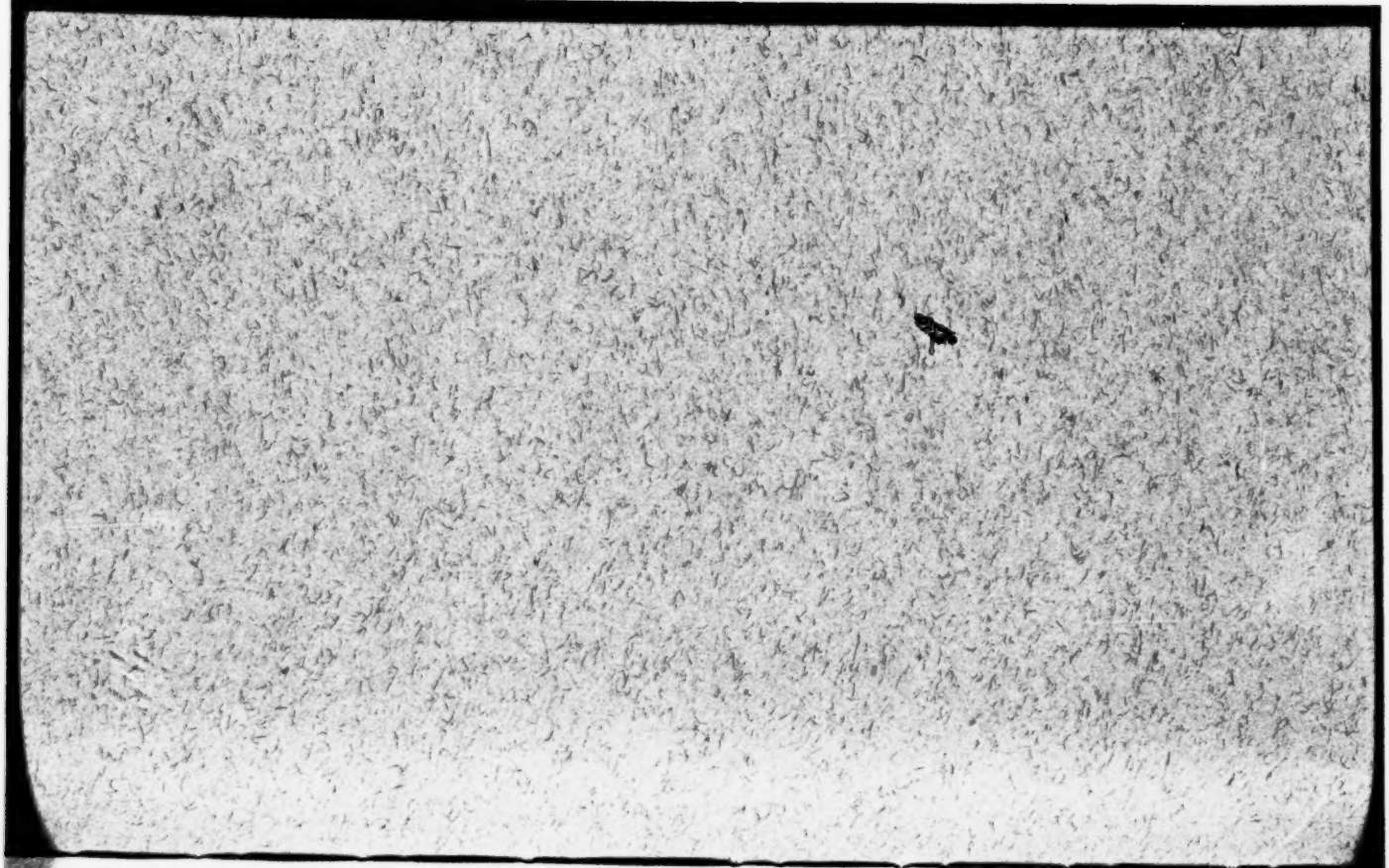
TIMOTHY R. VEAL, ET AL.,
Petitioners,

vs.

F. R. LEIMKUEHLER, ET AL.

PETITION FOR A WRIT OF CERTIORARI TO THE ST. LOUIS COURT OF APPEALS OF THE STATE OF MISSOURI AND BRIEF IN SUPPORT THEREOF.

TIMOTHY R. VEAL,
Petitioner Pro Se.



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F. R. LEIMKUEHLER, ET AL.

PETITION FOR A WRIT OF CERTIORARI TO THE ST. LOUIS COURT OF APPEALS

To the Honorable the Chief Justice and the Associate Justices of the Supreme Court of the United States:

Timothy R. Veal and Olivette E. Veal, the petitioners herein, pray that a writ of certiorari be issued to review the final judgment of the St. Louis Court of Appeals, affirming the judgment of the Circuit Court of St. Louis, Missouri which affirmed the decision of F. R. Leimkuehler, et al., constituting the Board of Adjustment of the City of St. Louis, Missouri, revoking Alteration Permit No. S 4566 alleged to have been issued to Timothy R. Veal and making it binding on Olivette E. Veal, sole owner of the property and to whom Alteration Permit No. S 4566 was granted.

without notice and hearing. It is requested that the writ be directed to the St. Louis Court of Appeals, an intermediate appellate court, rather than the Missouri Supreme Court, because the latter denied petitioners' application to transfer, thereby declining to assume jurisdiction in the matter. Under Missouri Supreme Court rule No. 1.25 "motions for reconsideration of the court's action in refusing applications for original writ shall not be filed." In order that there might be no question about the finality of the judgment, petitioners filed an application for leave to file a motion to reconsider their application to transfer, which was also denied by the Missouri Supreme Court. The decision of the St. Louis Court of Appeals is, therefore, a final judgment in the highest court of this State in which a decision could be had involving a right, privilege or immunity, specially set up or claimed by petitioners under the Constitution of the United States.

Statement of Matter Involved

The case involves the right of Olivette E. Veal, sole owner of the property in question and grantee of Building Permits (1) Alteration Permit No. S 4566 and (2) Occupancy Permit No. S 4567, not to be bound by a decision of the Board of Adjustment of the City of St. Louis and affirmed by the Courts below, where she was not made a party to the proceedings before the Board and received no notice nor had any opportunity to be heard, under the Fourteenth Amendment of the Federal Constitution.

Olivette E. Veal, sole owner of the property in question, made application to the Building Commissioner of the City of St. Louis, Missouri, on or about the 6th day of March, 1950, for building permits to alter and occupy said building as a funeral home; that on the 13th day of May, 1950 said Building Commissioner granted to Olivette E. Veal

Alteration Permit No. S 4566 to make certain alterations and Occupancy Permit No. S 4567 to use said property as a funeral home. The property in question was zoned commercial under Ordinance No. 35003 as amended by Ordinance No. 35009, which was in full force and effect in the City of St. Louis when the permits were granted.

In reliance upon the permits (Alteration Permit No. S 4566 and Occupancy Permit No. S 4567) Olivette E. Veal, permittee, entered into contractual obligations for supplies, equipment, and alterations in the amount of $5,681; that $4,415 of this amount was contracted for prior to May 25, 1950 and that $1,266 of this amount was contracted for between May 25, 1950 and August 17, 1950; that since August 17, 1950, Olivette E. Veal, permittee, has spent $2,319 for supplies and equipment, making a total amount spent $8,000; that under and by virtue of Permit No. S 4566 alterations and construction were begun on May 13, 1950; that under and by virtue of Permit No. S 4567, permittee occupied the premises located at 4311 Page Boulevard as a funeral home on the 13th day of May, 1950, and has continued to occupy said premises as a funeral home, offering funeral services to the general public.

The respondents, F. R. Leimkuehler, et al. constitute the Board of Adjustment of the City of St. Louis, Missouri. On the 17th day of August, 1950, Block Unit No. 48 filed the following appeal with the Board of Adjustment:

> "Appeal of Block Unit No. 48 (Mrs. Samuel Townsend, Chairman) for revocation of Permit No. S-4566, issued May 13, 1950, to Timothy R. Veal, Attorney, for operation of a mortuary at 4311 Page Avenue, located in "C" four-family dwelling district, under Ordinance No. 45309, effective May 26, 1950."

On September 13, 1950, one hundred twenty days after Permit S 4566 was issued, the Board of Adjustment of the

City of St. Louis had a hearing on the above appeal. Olivette E. Veal, sole owner of the property involved and the permittee, was a total stranger to the proceedings before the Board of Adjustment on September 13, 1950 because she was not made a party to the proceedings, received no notice and had no opportunity to be heard. At the hearing before the Board of Adjustment on September 13, 1950, Timothy R. Veal, who received all notices with reference to the hearing, presented Permit S 4566 (Exhibit 1) showing that the permit was granted to Olivette E. Veal and questioned the jurisdiction of the Board of Adjustment to hear this matter because no permits were granted to him and that any decision reached by the Board would not be binding on Olivette E. Veal, sole owner of the property and permittee, because she was not made a party to the procedings and had no notice with reference to it.

In response to Timothy R. Veal's challenge of the jurisdiction of the Board to hear this cause because of lack of notice and hearing being afforded Olivette E. Veal, sole permittee, the following statements of Mr. Leimkuehler, Chairman of the Board of Adjustment, and Mr. Lynch, Attorney for Block Unit No. 48, are taken from the record of the proceedings before the Board of Adjustment on September 13, 1950:

> "Mr. Leimkuehler (Chairman of the Board of Adjustment): Mr. Veal questions the authority of this Board to hear this case because of insufficient notice. Perhaps when we take it under advisement we will have to decide whether Mr. Veal was aware of the appeal and we have complied with the requirements of the ordinance in notifying the public."
>
> "Mr. Lynch (Attorney Block Unit No. 48) . . . If this permit is issued in your name our action would be against you because you are operating the funeral home. Mr. Veal is the one who was to have the notice. . . ."

At the conclusion of the hearing on September 13, 1955 the Board of Adjustment granted the appeal of Block Unit No. 48 revoking alteration permit No. S 4566 issued to Timothy R. Veal, who had no permit granted to him. At the rehearing Timothy R. Veal was represented by Alfred I. Harris, Attorney. Mr. Harris inadvertently joined Olivette E. Veal, a stranger to the proceedings before the Board of Adjustment, with Timothy R. Veal in a petition for writ of certiorari filed in the Circuit Court of St. Louis, Missouri to be directed to the Board of Adjustment. The writ was granted and the record of the proceedings of the Board of Adjustment was forwarded to the Circuit Court for the Court's inspection of the record of the proceedings assailed.

The trial of this case in the Circuit Court was not de novo, nor was any additional testimony taken but the cause was submitted on the pleadings. The judgment of the Circuit Court, without an opinion, did not bind Olivette E. Veal because it affirmed the decision of the Board of Adjustment revoking Alteration Permit No. S 4566 issued to Timothy R. Veal. The judgment is as follows:

> "Appellants' appeal denied. Decision of the Respondents, Board of Adjustment be, and the same is, sustained and affirmed, and that the relators pay the costs of this proceeding.
>
> (Signed) MICHAEL J. SCOTT,
> *Judge, Division No. 2.*"

Petitioners timely filed a motion for a new trial in the Circuit Court which was overruled.

The case was appealed to the St. Louis Court of Appeals. The judgment of the St. Louis Court of Appeals affirmed the decision of the Circuit Court. Its opinion holds that Permit No. S 4566 was granted to Timothy and Olivette Veal, notwithstanding the fact that Alteration Permit No. S 4566 was granted to Olivette E. Veal exclusively. Petitioners duly

filed in the St. Louis Court of Appeals their motion for a rehearing or to transfer to the Supreme Court. Upon the denial of that motion they filed in the State Supreme Court an application for transfer to that Court, and when that application was denied they filed an application for leave to file a motion to reconsider, which was also denied.

In the proceedings before the Board of Adjustment petitioner, Timothy R. Veal, attacked the validity of the Board's decision due to the fact that Olivette E. Veal, permittee, was not made a party to the proceedings and was not given notice and an opportunity to be heard. In each motion and application petitioners attacked the validity of the judgment on the ground that it violated the Fourteenth Amendment of the Federal Constitution.

Jurisdiction

1. Jurisdiction of this Court is invoked under Title 28, United States Code, Section 1257, which provides, in part:

"Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court as follows:

* * * * * * *

"(3) By writ of certiorari, * * * where any title, right, privilege or immunity is specially set up or claimed under the Constitution, * * *."

2. The St. Louis Court of Appeals is the highest court in the State of Missouri in which a decision could be had involving a right, privilege or immunity, specially set up or claimed by petitioners under the Constitution of the United States.

3. The judgment of which review is sought is a final judgment of the St. Louis Court of Appeals.

4. The judgment herein sought to be reviewed was filed on May 20, 1952 and became final on September 13, 1952

when the Supreme Court of Missouri overruled petitioners' application for leave to file motion to reconsider their application for transfer. On September 30, 1952, the St. Louis Court of Appeals entered an order staying its mandate until December 8, 1952 to enable your petitioners to apply to this Court for a writ of certiorari.

5. The federal question of substance which has been decided by the State court is that the constitutional guaranty of the Due Process Clause of the Fourteenth Amendment of the Federal Constitution is not infringed by the action of the Board of Adjustment of the City of St. Louis in revoking Alteration Permit No. S 4566 alleged to have been issued to Timothy R. Veal and making it binding on Olivette E. Veal, the sole permittee, where she was not made a party to the proceedings before the Board, received no notice and had no opportunity to be heard. That decision of the St. Louis Court of Appeals is squarely in conflict with the decision of this Court construing the Fourteenth Amendment to the Federal Constitution. (*Southern Ry. Co.* v. *Commonwealth of Virginia ex rel. Shirley*, 290 U. S. 190, 54 S. Ct. 148; *Interstate Commerce Comm.* v. *Louisville & Nashville R. Co.*, 227 U. S. 88, 33 S. Ct. 185.)

6. The Federal question was timely raised and considered. Upon the commencement of this cause the Board of Adjustment, without making Olivette E. Veal a party to the proceedings before the Board and without notice and hearing, issued an order revoking Alteration Permit No. S 4566 alleged to have been issued to Timothy R. Veal. Timothy R. Veal raised, before the Board, the question of jurisdiction because of lack of notice and hearing afforded Olivette E. Veal. The following is taken from the record of the proceedings before the Board:

"Mr. Leimkuehler (Chairman of the Board of Adjustment): Mr. Veal questions the authority of this

> Board to hear this case because of insufficient notice. Perhaps when we take it under advisement we will have to decide whether Mr. Veal was aware of the appeal and we have complied with the requirements of the ordinance in notifying the public."

Upon commencement of this action in the St. Louis Circuit Court petitioners in their application for writ of certiorari, in par. 9 (4), raised the Federal question: "The order violates the 14th Amendment of the United States Constitution." Following the judgment of the Circuit Court affirming the decision of the Board of Adjustment, petitioners raised the Federal question in their motion for a new trial. Par. 3 of their motion for a new trial reads as follows: "That the judgment violates Article I, Sections 10 and 13, of the Missouri Constitution, and the 14th Amendment of the United States Constitution."

Petitioners saved the federal question in the St. Louis Court of Appeals in their motion for rehearing or transfer of the cause from the St. Louis Court of Appeals to the Missouri Supreme Court (Par. 5). In *Veal* v. *Leimkuehler*, 249 S. W. 2d 491, p. 495, the St. Louis Court of Appeals ruled on the Constitutional question, "There is, however, no constitutional question in the case."

Petitioners raised the Federal question in the Supreme Court of Missouri in their application for transfer and in their suggestions in support of their application for transfer.

The Question Presented

1. Is the constitutional guaranty of the Fourteenth Amendment infringed by the proceedings of the Board of Adjustment of St. Louis, Missouri, revoking Alteration Permit No. S 4566, alleged to have been issued to Timothy R. Veal, who had no permit, affirmed by the Circuit Court and the Court of Appeals of St. Louis, Missouri and making

it binding on Olivette E. Veal, sole owner of the property and sole permittee, where she was not made a party to the proceedings, nor served with any notice or had any opportunity to be heard?

2. This case also involves the question whether, under the Fourteenth Amendment of the Federal Constitution, the Board of Adjustment of the City of St. Louis, under the disguise of police power and without notice and hearing, with reference to Occupancy Permit No. S 4567, can lawfully destroy the right to enjoyment, present or prospective, which has become the property right of Olivette E. Veal under the authority of Permit No. S 4567, Certificate of Occupancy.

Reasons Relied On for the Allowance of the Writ

1. The decision of the Court below is directly in conflict with the due process clause of the Fourteenth Amendment of the Federal Constitution and a long line of cases, both State and Federal, holding that administrative orders, quasi-judicial in character, are void if a hearing is denied.

2. The decision of the Court below is clearly in error in upholding the judgment of the Circuit Court and in refusing to recognize petitioners' constitutional rights under the Fourteenth Amendment of the Federal Constitution.

3. The decision of the Court below is clearly in error in holding that Alteration Permit No. S 4566 was granted to Timothy and Olivette Veal because Permit No. S 4566 was granted to Olivette E. Veal exclusively.

4. The decision of the Court below is clearly in error in upholding the judgment of the Circuit Court and in refusing to recognize Olivette E. Veal's constitutional rights under the Fourteenth Amendment to the Federal Constitution where she has acquired vested rights under the authority of Permit No. S 4567 (Certificate of Occupancy) by

actual use and occupancy and the expenditure of $8,000 in good faith and in reliance thereon.

Your petitioners respectfully submit that the writ of certiorari should issue to the end that this Court may review the decision of the St. Louis Court of Appeals and determine whether that Court has deprived petitioners of rights guaranteed by the Fourteenth Amendment to the Federal Constitution.

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OLIVETTE E. VEAL,
Petitioner.

BRIEF IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI TO THE ST. LOUIS COURT OF APPEALS.

I

Opinion of the Court Below

The opinion of the St. Louis Court of Appeals is reported in 249 S. W. 2d 491, and is attached.

II

Jurisdiction

Jurisdiction is fully covered in the foregoing petition and the statement there made is adopted here by reference.

III

Statement of the Case

A concise statement of the case is set forth in the foregoing petition under the heading "Statement of Matter Involved" and, in the interest of brevity, is adopted here by reference.

The other facts relating to the dispute between petitioners and respondents which were mentioned in the opinion of the Court below are the following:

The respondents granted to Olivette E. Veal Permit No. S 4567, Certificate of Occupancy, on May 13, 1950. This Permit gave Olivette E. Veal the right to occupy the property in question as a funeral home. Under authority of Permit No. S 4567, the premises were occupied on May 13, 1950 and has continued to be occupied as a funeral home.

The City of St. Louis Zoning Ordinance provides for a two permit system; (1) an alteration permit which gives the holder the right to make alterations on the property covered

by the permit and (2) a certificate of occupancy which gives the holder the right to occupy the property for the purpose indicated on the permit. Each permit is independent of the other. The revocation of one does not revoke the other.

The Certificate of Occupancy No. S 4567 granted to Olivette E. Veal to occupy the premises as the Veal Mortuary, has not been acted upon by the Board of Adjustment nor the Courts below. The Permit has ripened into a vested right by actual use and occupancy and the expenditure of $8,000. The Permit it still in force, but the opinion of the St. Louis Court of Appeals seems to give the Board of Adjustment the power, under the disguise of police power, to confiscate this Permit and thereby destroy the right to enjoyment, present or prospective, which has become the property right of Olivette E. Veal under authority of the Permit and violate the Fourteenth Amendment of the Federal Constitution.

IV

Specifications of Error

1. The Court erred in affirming the judgment of the Circuit Court because the Circuit Court affirmed a void decision of the Board of Adjustment due to lack of jurisdiction over the person of Olivette E. Veal, permittee, as she was not made a party to the proceedings nor received any notice nor had any opportunity to be heard as required by the Fourteenth Amendment of the Federal Constitution.

2. The Court erred in holding that Permit No. S 4566 was granted to Timothy and Olivette Veal because Permit No. S 4566 was granted to Olivette E. Veal exclusively.

3. The Court erred in holding that there was no constitutional question involved.

4. The Court erred in upholding the judgment of the Circuit Court and refusing to recognize Olivette E. Veal's

vested rights under Permit No. S 4567 which are protected by the Fourteenth Amendment of the Federal Constitution.

V

Summary of Argument

1. Due process clauses of the Federal Constitution require administrative agencies in adjudicating cases to give notice to parties whose interests are at stake and a right to be heard.

2. There was no permit issued to Timothy and Olivette Veal, but Permit No. S 4566 was issued to Olivette E. Veal exclusively.

3. The Federal question was timely raised before the Board of Adjustment in Timothy R. Veal's challenge of the lack of jurisdiction of the Board of Adjustment to hear this cause because of lack of notice and hearing to the real party in interest. The Federal question was raised in the Circuit Court in our application for writ of certiorari and saved in our motion for a new trial. The Federal question was raised in the St. Louis Court of Appeals by petitioner's brief and oral argument and their motion for rehearing or transfer to the Missouri Supreme Court.

4. When once the proper authorities grant a permit for the erection or alteration or use of a structure, after applicant has made contracts and incurred liabilities thereon, she acquires a kind of property right (vested rights) on which she is entitled to protection and such right may not be taken from her against her will other than by proceedings in eminent domain with the payment of just compensation.

Authorities

1. Due process clauses of the Federal Constitution require administrative agencies in adjudicating cases to

give notice to parties whose interests are at stake and a right to be heard.

Southern Ry. Co. v. *Commonwealth of Virginia ex rel. Shirley*, 290 U. S. 190, 54 S. Ct. 148;

Interstate Commerce Comm. v. *Louisville & Nashville R. Co.*, 227 U. S. 88, 33 S. Ct. 185;

U. S. Constitution, Amendment XIV, Section 1;

Missouri Revised Statutes 1949, Par. 89.100;

Ordinance 45309, Section 19, sub section C;

State ex rel. Reid v. *Walbridge*, 119 Mo. 383, 24 S. W. 457;

Albert J. Hoppe, Inc. v. *St. Louis Public Service Co.*, 235 S. W. 2d 347 (1950);

Kalman v. *Walsh*, 355 Ill. 341, 189 N. E. 315 (1934);

Hemreich v. *Quinn*, 168 S. W. 2nd 1054, 350 Mo. 770;

Dougherty v. *Manhattan Rubber Co.*, 325 Mo. 656, 29 S. W. 2d 126.

* * * * * * *

4. When once the proper authorities grant a permit for the erection or alteration or use of a structure, after applicant has made contracts and incurred liabilities thereon, she acquires a kind of property right (vested rights) on which she is entitled to protection and such right may not be taken from her against her will other than by proceedings in eminent domain with the payment of just compensation.

Dobbins v. *Los Angeles*, 195 U. S. 223, 25 S. Ct. 18, 49 L. Ed. 169;

District of Columbia v. *Cahill*, 60 App. D. C. 342, 54 F. 2d 453;

City of Buffalo v. *Chadeayne*, 134 N. Y. 163, 31 N. E. 443;

Sandenburgh v. *Michigamme Oil Co.*, 249 Mich. 372, 228 N. W. 707;

Crow v. *Board of Adjustment of Iowa City*, 227 Iowa 324, 288 N. W. 145;
Pelham View Apartment v. *Switzer*, 130 Misc. 545, 224 N. Y. 56;
Trans Oceanic Oil Corp. v. *City of Santa Barbara*, 85 Cal. App. 2d 776, 194 P. 2d. 148;
Pratt v. *Denver*, 72 Colo. 51, 209 P. 508;
City of Evansville, Ind. v. *Casteria*, 7 Cir., 51 F. 2d 232;
Brown v. *Grant*, Tex. Civ. App., 2 S. W. 2d 285;
12 C. J. (p. 956, par. 486);
43 C. J. (Par. 380);
12 C. J. (Par. 385 and 386);
53 C. J. S. Licenses (Par. 44);
9 Am. Jur., Sec. 8, P. 204.

Argument

I

Due process clause of the Federal Constitution requires administrative agencies in adjudicating cases to give notice to parties whose interests are at stake and a right to be heard.

The Court below affirmed the judgment of the Circuit Court which affirmed the decision of the Board of Adjustment revoking alteration permit alleged to have been issued to Timothy R. Veal and attempts to make it binding on Olivette Veal who was not made a party to the proceedings before the Board and without notice and hearing. This was error because due notice to parties whose interest are at stake is a prerequisite to lawful exercise of the Board's power.

In Appeal No. 789, Block Unit 48 requested the Board to revoke Alteration Permit S 4566 alleged to have been issued to Timothy R. Veal. The Board of Adjustment

granted the appeal by revoking Alteration Permit No. S 4566 alleged to have been issued to Timothy R. Veal. All notices with reference to the hearing to be held September 13, 1950 were sent to Timothy R. Veal who had no permit granted to him. Olivette E. Veal who is the sole permittee was not made a party to the proceedings, received no notice nor afforded an opportunity to be heard.

This Court held in *Southern Ry. Co.* v. *Commonwealth of Virginia ex rel. Shirley*, 290 U. S. 190, 54 S. Ct. 148, "Administrative orders, quasi-judicial in character, are void if a hearing was denied." In *Interstate Commerce Comm.* v. *Louisville & Nashville R. Co.*, 227 U. S. 88, 33 S. Ct. 185, this Court said "Where statute demands a 'full hearing' an order made by an administrative agency is void if such a hearing is denied." Olivette E. Veal's name does not appear anywhere in the record of the Board's proceedings. She was not made a party to the proceedings nor had any opportunity to be heard. The decision of the Board is void as to Olivette E. Veal. The affirmance of that void decision by the Circuit Court and the Court of Appeals does not cure the decision of its nullity.

II

The Court erred in holding that Permit No. S 4566 was granted to Timothy and Olivette Veal because Permit No. S 4566 was granted to Olivette E. Veal exclusively.

Alteration Permit No. S 4566 was not issued to Timothy and Olivette Veal as the Court of Appeals claims, but only to Olivette E. Veal exclusively as inscribed on the permit. This permit was presented to the Board of Adjustment as Timothy R. Veal's Exhibit #1 and shown in the record of the proceedings before the Board. A typewritten copy of the permit was included in petitioners printed brief sub-

mitted in the Court of Appeals on page 45. A photostatic copy of the permit is attached to this brief.

III

The Court erred in holding that there was no constitutional question involved, because notice and hearing raised jurisdictional questions. If the Board of Adjustment had no jurisdiction over the person of Olivette E. Veal as indicated by the records of the proceedings of the Board, the Circuit Court affirmed a void decision. Lack of jurisdiction over the person necessarily vitiates the entire proceedings and the question of such lack of jurisdiction may consequently be taken advantage of at any time or stage of the proceedings, either in the trial court or the appellate court. The Federal question was raised before the Board of Adjustment. It was raised before the trial court in the application for writ of certiorari and our motion for a new trial. It was raised before the St. Louis Court of Appeals in our brief and oral argument. It was raised again in the St. Louis Court of Appeals in our motion for a rehearing or transfer to the Missouri Supreme Court. The Federal question was raised before the Missouri Supreme Court in our Application to Transfer and our suggestions in support of our motion to transfer.

IV

When once the proper authorities grant a permit for the erection or alteration or use of a structure, after applicant has made contracts and incurred liabilities thereon, she acquires a kind of property right (vested rights) on which she is entitled to protection and such right may not be taken from her against her will other than by proceedings in eminent domain with the payment of just compensation.

The Alteration Permit No. S 4566 granted to Olivette E. Veal has not been legally revoked because the proceedings

of the Board in revoking a permit No. S 4566 alleged to have been issued to Timothy R. Veal is not binding on Olivette E. Veal because she was not made a party to the proceedings, had no notice or hearing. Permit No. S 4567 granted to Olivette E. Veal to occupy her property as the Veal Mortuary has not been acted on by the Board of Adjustment, the Circuit Court nor the Court of Appeals. The Permit is still in force.

In reliance upon the permits (Alteration Permit No. S 4566 and Occupancy Permit No. S 4567) Olivette E. Veal occupied the property as a funeral home on May 13, 1950 and entered into contractual obligations for supplies, equipment, and alterations amounting to $8,000; that $4,415 of this amount was contracted for prior to May 25, 1950; that $1,266 of this amount was contracted for between May 25, 1950 and August 17, 1950; and that since August 17, 1950 Olivette E. Veal has spent $2,319 for supplies and equipment. The permits held by Olivette E. Veal have ripened into vested rights. Vested rights are protected by the Fourteenth Amendment of the Federal Constitution. The principle is stated in 12 C. J., Page 956, Par. 486, "The state has no power to divest or to impair vested rights, whether such an attempt to do so be made by legislative enactment, by municipal ordinance, or by a change in the constitution of the state. This result follows from prohibitions contained in the constitutions of practically all the states. Before the adoption of the fourteenth amendment there was no prohibition in the constitution of the United States which would prevent the states from passing laws divesting vested rights, unless these laws also impaired the obligation of contracts, or were ex post facto laws, but vested property rights are now protected against state action by the provision of the fourteenth amendment that no state 'shall

deprive any person of life, liberty or property without due process of law.' "

In *Dobbins* v. *Los Angeles*, 195 U. S. 223, 25 S. Ct. 18, 49 L. Ed. 169, the Court said, on page 239, "being the owner of the land, and having partially erected the works, the plaintiff in error had acquired property rights, and was entitled to protection against unconstitutional encroachments which would have the effect to deprive her of her property without due process of law."

Respectfully submitted,

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OLIVETTE E. VEAL,
Petitioner.

20

APPENDIX "A"

Register

DEPARTMENT OF PUBLIC SAFETY

Division of Building and Inspection

$ No. 4566

Estimated Cost, $ 1-50-
Fee, $ 2-
Inspection Fee, $ 2-
Spec. Insp. Fee, $
Furnace Fee, $
Occupancy Fee, $
Total, $ 4-

Public Fire Plugs, Stop Valves, Gutters and Sewer Openings must not be obstructed with building material.

No Sign, Bill Posting, or Advertisements of any kind shall be placed on Building Material in Street, on Penalty of Revocation of Permit.

No Encroachment will be permitted beyond Building Line except in accordance with Section 9.

St. Louis, 2 13 1900

Comptroller

Permission is hereby granted to Christ Linn

to alt 1 sty brick building on part of lot

City Block No. 2116 House No. 4211 Finney

in accordance with the provisions of the City Ordinances and application filed with the Building Commissioner, said building to be used as Tenement Home

This Permit does not authorize the occupation of any portion of any Street, Alley or Sidewalk and is subject to Section 8, Building Code.

NOTE—Copy of plans approved by Building Division Engineer must be available on building site at all times.

Inspection by Building Division must be called for as follows:
A—Before pouring concrete in footings.
B—Before pouring concrete in reinforced concrete construction otherwise a load test will be required.

NOT RESPONSIBLE FOR DEED RESTRICTIONS

This permit expires 2 13 1901

Building Commissioner.

Per